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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL 1998

BEFORE

THE HON'BLE MR.JUSTICE A.J.SADASHIVA

WRIT PETITION No. 33720/1997

BETWEEN:

Smt.Azeeza Banu, w/o R.N.Syed
Hussain, aged about 65 yrs.,
r/a No.3/41, 10th Cross,
III Block East, Jayanagar,
Bangalore-11.

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.. Petitioner

(By Sri S.N.Sathyanarayana, Adv.,)

AND:

1. The State of Karnataka,
by its Secretary HUD,
Vidhana Soudha, Bangalore.
2. The Divisional Commissioner,
Bangalore Division, T.V.Tower,
Vidhana Veedhi, Bangalore.
3. The Special Deputy Commissioner,
Bangalore Dist., Krishi Bhavan,
Hudson Circle, Bangalore.

.. Respondents

(By Sri K.Nagaraja, HCGP)

This Writ Petition filed under Articles 226 and 227 of the Constitution of India, praying to quash the order vide Annex.E dt. 6.12.94 by R-2 in respect of land bearing Sy.No.19/2A.19/3A 1a ic of Konanakunte village, Uttarahalli Hobli, Bangalore South Taluk and etc.,

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This Writ Petition coming on for preliminary hearing this day, the Court made the following :-

O R D E R

Though this petition is listed for preliminary hearing, the same is heard on merits and disposed of by this order, with the consent of the learned Counsel appearing on both the sides.

2. The order dated December 6, 1994 passed by the second respondent in No.ALN(BS)CR 159/89-90 as per Annexure-E is sought to be quashed by the petitioner in this petition on more than one ground.

3. In view of this petition could be disposed of on a technical ground, I deem it unnecessary to consider other grounds. It is seen from the records produced by the learned HCGP and also the certified copy of the order sheet produced by the petitioner that, on May 10, 1993 the husband of the petitioner filed a written argument and requested for spot inspection and the case was posted for orders. The Presiding Officer came to be transferred before the orders are pronounced. Thereafter, the successor-in-office passed the impugned order. As contended by the

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petitioner, the impugned order has been made without notice to her. It is nodoubt true that the earlier Presiding Officer heard the petitioner but as he was transferred before the orders are pronounced, the successor-in-office should have provided an opportunity of being heard to the petitioner as the order was not prepared by the then incumbent.

4. It is contended by Sri.K.Nagaraja, the learned HCGP, that the notice of rehearing was served on the petitioner and in support of his contention he brought to my notice the signature of a person which cannot be diciphered on the back of the communication dated March 21, 1994 from the second respondent to the Tahsildar. It does not bear the signature of the petitioner nor that of any adult member of her family. The copy of notice of re-hearing though available on record ~~it~~ contains no signature of any of the parties in proof of acknowledgement of service. It is therefore clear that the impugned order has been made in violation of the principles of natural justice.

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5. For the reasons aforesaid, this petition is allowed. The order dated December 6, 1994 passed by the second respondent in No.ALN(BS) CR 159/89-90 as per Annexure-E is hereby quashed. The matter is remitted to the second respondent for fresh disposal in accordance with law. The petitioner shall appear before the second respondent on 12.6.1998 to take the next date of hearing without ^{Expecting} ~~expecting~~ any notice from the second respondent.

6. In the circumstances of the case, there is no order as to costs.

7. Sri.K.Nagaraja, the learned HCGP, is permitted to file memo of appearance within four weeks.

Sd/-
JUDGE